

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MICHAEL PATRICK SHAUGHNESSY,

Plaintiff,

- v -

5:13-CV-271  
(TJM/ATB)

STATE OF NEW YORK, *et al.*,

Defendants.

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THOMAS J. McAVOY,  
Senior United States District Judge

**DECISION & ORDER**

**I. INTRODUCTION**

This pro se action brought pursuant to 42 U.S.C. § 1983 was referred by this Court to the Hon. Andrew T. Baxter, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c). In his Order and Report-Recommendation, Magistrate Judge Baxter recommends that Plaintiff's complaint be dismissed in its entirety pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(iii). Plaintiff filed objections to the Report-Recommendation and Order. Dkt. # 11.

**II. DISCUSSION**

When objections to a magistrate judge's report and recommendation are lodged, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b); see also United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir.1997)(The Court must make a *de novo* determination to the extent that a party makes

specific objections to a magistrate's findings.). "[E]ven a *pro se* party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument." Machicote v. Ercole, 2011 WL 3809920, at \* 2 (S.D.N.Y., Aug. 25, 2011)(citations and interior quotation marks omitted); DiPilato v. 7-Eleven, Inc., 662 F. Supp.2d 333, 340 (S.D.N.Y. 2009)(same).

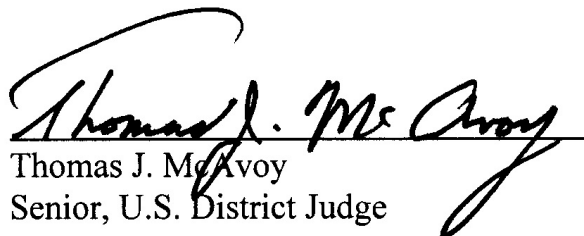
General or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error. Farid v. Bouey, 554 F. Supp. 2d 301, 306 n. 2 (N.D.N.Y. 2008); see Frankel v. N.Y.C., 2009 WL 465645 at \*2 (S.D.N.Y. Feb. 25, 2009). After reviewing the report and recommendation, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b).

### **III. CONCLUSION**

Having reviewed Plaintiff's objections, the Court determines to adopt Magistrate Judge Baxter's recommendations for the reasons stated in the Order and Report-Recommendation [dkt. # 4]. Therefore, Plaintiff's complaint [dkt. # 1] is **DISMISSED IN ITS ENTIRETY pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).**

**IT IS SO ORDERED.**

**Dated: February 4, 2014**

  
Thomas J. McAvoy  
Senior, U.S. District Judge